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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,733	08/14/2001	Matthew Edward Volpenhein	8206M	9024

27752 7590 04/18/2007

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EXAMINER

DOUYON, LORNA M

ART UNIT

PAPER NUMBER

1751

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/18/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

09/929,733

Applicant(s)

VOLPENHEIN ET AL.

Examiner

Lorna M. Douyon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6,12,14-18,28,40 and 43-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,12,14-18,28,40 and 43-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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1. This action is responsive to the amendment filed on January 31, 2007.
2. Claims 1-6, 12, 14-18, 28, 40, 43-56 are pending. Claims 43-56 are newly added.
3. The objection to the disclosure is withdrawn in view of Applicants' amendment and arguments therein.
4. The rejection of claims 1-7, 10-28, 40-42 under 35 U.S.C. 103(a) as being unpatentable over Rogers et al. (WO 98/44185) in view of Edwards et al. (US Patent No. 4,076,633) is withdrawn in view of Applicants' amendment.

#### ***Claim Objections***

5. Claim 1 is objected to because of the following informalities: in line 11, "d)" should have been cancelled. Please note that the limitations in section "c)" was deleted and therefore vacated. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:  
  
The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
7. Claims 1-6, 12, 14-18, 28, 40, 43-56 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s)

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contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation "a first outer layer and a second outer layer, wherein the first outer layer is bonded to the second outer layer through the plurality of apertures in the viscoelastic material, forming a plurality of bonding sites" in claim 1 (last three lines) is not supported in the specification and is therefore considered as new matter. Please note that the specification on page 13, lines 18-27, states that "the melt bonding at the melt bond sites **50** tends to make localized weakened portions of the web at the bond sites...as the portions of the web **10** are extended in a direction generally orthogonal to the longitudinal axis **I** of bond sites **50**, the material at the bond site fails in tension an aperture is formed. Page 13, lines 32-34, also states that "where formerly were melt bond sites **50**, apertures **60** are produced as the relatively weak bond sites fail in tension."

8. Claims 1-6, 12, 14-18, 28, 40, 43-56 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite in the recital of "a first outer layer and a second outer layer, wherein the first outer layer is bonded to the second outer layer through the plurality of apertures in the viscoelastic material, forming a plurality of bonding sites" because it is not clear how bonding is accomplished through the apertures.

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Claims 2-6, 12, 14-18, 28, 40, 43-56, being dependent upon claim 1, are rejected as well.

***Claim Rejections - 35 USC § 103***

9. Claims 1-6, 12, 14-18, 28, 40, 43-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers et al. (WO 98/44185) hereinafter "Rogers".

Rogers teaches an article for treating fabrics in a clothes dryer which comprises:

a) an absorbent carrier substrate; b) a liquid cleaning/refreshment composition releasably absorbed in said substrate; said substrate being wholly or partly covered by (c) a fibrous coversheet having a minimum thickness (uncompressed) of about 8 mils (0.2 mm) (see abstract). As shown in Figure 1, the article can be assembled as a laminate comprising a topmost fibrous sheet (1a), an absorbent carrier sheet as the core (1b) and a bottommost fibrous sheet (1c), and the combination of topsheet and bottomsheets comprises the "coversheet" (see page 5, lines 3-6; Figure 1). The coversheet substantially envelops and encases said substrate (see page 3, lines 3-4). The coversheets are constructed from hydrophobic fibers (see page 5, last paragraph) such as polyethylene or nylon (see page 6, lines 5, 19-22) and can be ring rolled or crimped to provide three dimensional bulk (see page 6, second line from last). In Example 1, Rogers teaches a carrier sheet of HYDRASPUN®, which is a blend of cellulosic, rayon, polyester and optional bicomponent fibers (see page 9, lines 3-7), covered on both sides with a topsheet and a bottomsheets of 8 mil Reemay fabric coversheet material, into which is poured a liquid fabric cleaning/refreshment product

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comprising water and an ethoxylated nonionic surfactant, wherein holes are punched in the carrier sheet in order to minimize its tendency to re-fold in-use (see page 42, last four lines; entire page 43). Rogers, however, fails to specifically disclose (1) the topmost fibrous sheet bonded to bottommost fibrous sheet through the plurality of apertures, forming a plurality of bonding sites, (2) the carrier sheet being prepared by the recited technology in claims 5-6, and (3) the coversheet comprising ink, paint or consumer signal component as required in claims 40, 48 and 49.

With respect to difference (1), it would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the topmost fibrous sheet and the bottommost fibrous sheet of Rogers to be bonded through the apertures because Rogers teaches that the article can be assembled as a laminate and that holes are punched in the carrier sheet.

With respect to difference (2), it should be noted that the present claims are product-by-process claims, hence, any difference imparted by the product by process limitations would have been obvious to one having ordinary skill in the art at the time the invention was made because where the examiner has found a substantially similar product as in the applied prior art, the burden of proof is shifted to the applicant to establish that their product is patentably distinct, not the examiner to show the same process of making, see *In re Brown*, 173 USPQ 685 and *In re Fessmann*, 180 USPQ 324.

With respect to difference (3), it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate consumer signal in the form

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of ink or paint in the coversheet of Rogers because every article of commerce is provided with an indicia in these forms.

### ***Response to Arguments***

10. Applicant's arguments filed on January 31, 2007 have been fully considered but they are not persuasive.

With respect to the obviousness rejection based upon Rogers, as they apply to the present rejected claims, Applicants argue that Rogers fail to teach or suggest a cleaning sheet where the first outer layer and a second outer layer are bonded through the plurality of apertures in the viscoelastic material.

The Examiner respectfully disagrees with the above argument because as discussed above, it would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the topmost fibrous sheet and the bottommost fibrous sheet of Rogers to be bonded through the apertures because Rogers teaches that the article can be assembled as a laminate and that holes are punched in the carrier sheet. Hence, the final product would read on the limitations of the present claims.

### ***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

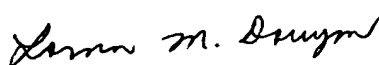
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is 571-272-1313. The examiner can normally be reached on Mondays-Fridays 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on 571-272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lorna M. Douyon  
Primary Examiner  
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